

Introduced by Senator Steinberg

February 20, 2013

An act to amend Sections 5001 and 5008 of, and to add Sections 5001.5 and 5013 to, the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as introduced, Steinberg. Mental health.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders and for the protection of the persons so committed. Existing law states the intent of the Legislature, with regard to this act, including to end inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to eliminate legal disabilities and to protect mentally disordered persons and developmentally disabled persons.

This bill would state the intent of the Legislature, additionally, to ensure equal protection for all persons who are subject to involuntary detention and to provide services in the least restrictive setting consistent with the needs and stability of the person, as well as making technical changes. The bill would require counties to ensure that persons with severe mental illness who are on custodial hold receive prompt assessment, evaluation, and treatment, regardless of insurance status, economic status, or ability to pay for treatment.

This bill would require each county mental health department to post on its Internet Web site a current list, to be updated at least annually, of ambulatory services and other resources for persons with severe mental illness and substance use in the county that may be accessed by

providers and consumers of mental health services. By imposing these additional requirements on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5001 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 5001. The provisions of this part shall be construed to promote
- 4 the legislative intent as follows:
- 5 (a) To end the inappropriate, indefinite, and involuntary
- 6 commitment of ~~mentally disordered persons, developmentally~~
- 7 ~~disabled persons, and persons impaired by persons with severe~~
- 8 ~~mental illness, developmental disabilities, and~~ chronic alcoholism,
- 9 and to eliminate legal ~~disabilities; disabilities.~~
- 10 (b) To provide prompt evaluation and treatment of persons with
- 11 ~~serious severe mental disorders illness or impaired by chronic~~
- 12 ~~alcoholism; alcoholism.~~
- 13 (c) To guarantee and protect public ~~safety; safety.~~
- 14 (d) To safeguard individual rights through judicial ~~review;~~
- 15 ~~review.~~
- 16 (e) To provide individualized treatment, supervision, and
- 17 placement services by a conservatorship program for gravely
- 18 ~~disabled persons; persons.~~
- 19 (f) To encourage the full use of all existing agencies,
- 20 professional personnel, and public funds to accomplish these
- 21 objectives and to prevent duplication of services and unnecessary
- 22 ~~expenditures; expenditures.~~
- 23 (g) To protect ~~mentally disordered persons and developmentally~~
- 24 ~~disabled persons~~ *persons with severe mental illness and*
- 25 *developmental disabilities* from criminal acts.

1 (h) *To promote consistent statewide application of this part in*
2 *order to ensure equal protection for all persons who are subject*
3 *to involuntary detention, including preadmission assessment and*
4 *evaluation and treatment pursuant to this part.*

5 (i) *To provide services in the least restrictive setting consistent*
6 *with the needs and stability of the persons subject to this part.*

7 SEC. 2. Section 5001.5 is added to the Welfare and Institutions
8 Code, to read:

9 5001.5. In furtherance of subdivision (b) of Section 5001, each
10 county shall have the responsibility, in accordance with this part,
11 to ensure that all persons with severe mental illness who are on a
12 custodial hold receive prompt assessment, evaluation, and
13 treatment, regardless of insurance status, economic status, or ability
14 to pay for services.

15 SEC. 3. Section 5008 of the Welfare and Institutions Code is
16 amended to read:

17 5008. Unless the context otherwise requires, the following
18 definitions shall govern the construction of this part:

19 (a) “Evaluation” consists of multidisciplinary professional
20 analyses of a person’s medical, psychological, educational, social,
21 financial, and legal conditions as may appear to constitute a
22 problem. Persons providing evaluation services shall be properly
23 qualified professionals and may be full-time employees of an
24 agency providing evaluation services or may be part-time
25 employees or may be employed on a contractual basis.

26 (b) “Court-ordered evaluation” means an evaluation ordered by
27 a superior court pursuant to Article 2 (commencing with Section
28 5200) or by a court pursuant to Article 3 (commencing with Section
29 5225) of Chapter 2.

30 (c) “Intensive treatment” consists of such hospital and other
31 services as may be indicated. Intensive treatment shall be provided
32 by properly qualified professionals and carried out in facilities
33 qualifying for reimbursement under the California Medical
34 Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing
35 with Section 14000) of Part 3 of Division 9, or under Title XVIII
36 of the federal Social Security Act and regulations thereunder.
37 Intensive treatment may be provided in hospitals of the United
38 States government by properly qualified professionals. Nothing
39 in this part shall be construed to prohibit an intensive treatment
40 facility from also providing 72-hour treatment and evaluation.

(d) “Referral” is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person’s behalf, discussing the person’s problem with the ~~agency or individual facility, provider, or other organization~~ to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the ~~agency or individual facility, provider, or other organization~~ to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services ~~which~~ *that* prevent initial recourse to hospital treatment or aftercare services ~~which~~ *that* support adjustment to community living following hospital treatment. These services may be provided through county ~~welfare~~ *mental health* departments, State Department of State Hospitals, Short-Doyle programs, or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) “Crisis intervention” consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) “Prepetition screening” is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be

1 gravely disabled, to assess the problem and explain the petition;
2 when indicated, efforts to persuade the person to receive, on a
3 voluntary basis, comprehensive evaluation, crisis intervention,
4 referral, and other services specified in this part.

5 (g) “Conservatorship investigation” means investigation by an
6 agency appointed or designated by the governing body of cases in
7 which conservatorship is recommended pursuant to Chapter 3
8 (commencing with Section 5350).

9 (h) (1) For purposes of Article 1 (commencing with Section
10 5150), Article 2 (commencing with Section 5200), and Article 4
11 (commencing with Section 5250) of Chapter 2, and for the purposes
12 of Chapter 3 (commencing with Section 5350), “gravely disabled”
13 means either of the following:

14 (A) A condition in which a person, as a result of a mental
15 disorder, is unable to provide for his or her basic personal needs
16 for food, clothing, or shelter.

17 (B) A condition in which a person, has been found mentally
18 incompetent under Section 1370 of the Penal Code and all of the
19 following facts exist:

20 (i) The indictment or information pending against the defendant
21 at the time of commitment charges a felony involving death, great
22 bodily harm, or a serious threat to the physical well-being of
23 another person.

24 (ii) The indictment or information has not been dismissed.

25 (iii) As a result of mental disorder, the person is unable to
26 understand the nature and purpose of the proceedings taken against
27 him or her and to assist counsel in the conduct of his or her defense
28 in a rational manner.

29 (2) For purposes of Article 3 (commencing with Section 5225)
30 and Article 4 (commencing with Section 5250), of Chapter 2, and
31 for the purposes of Chapter 3 (commencing with Section 5350),
32 “gravely disabled” means a condition in which a person, as a result
33 of impairment by chronic alcoholism, is unable to provide for his
34 or her basic personal needs for food, clothing, or shelter.

35 (3) The term “gravely disabled” does not include mentally
36 retarded persons by reason of being mentally retarded alone.

37 (i) “Peace officer” means a duly sworn peace officer as that
38 term is defined in Chapter 4.5 (commencing with Section 830) of
39 Title 3 of Part 2 of the Penal Code who has completed the basic
40 training course established by the Commission on Peace Officer

Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) “Postcertification treatment” means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) “Court,” unless otherwise specified, means a court of record.

(l) “Antipsychotic medication” means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) “Emergency” means a situation in which action to impose treatment over the person’s objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

SEC. 4. Section 5013 is added to the Welfare and Institutions Code, to read:

5013. (a) It is the intent of the Legislature that referrals between facilities, providers, and other organizations shall be facilitated by the sharing of information and records in accordance with Section 5328 and applicable federal and state laws.

(b) Each county mental health department’s Internet Web site shall include a current list of ambulatory services and other resources for persons with severe mental illness and substance use in the county that may be accessed by providers and consumers of mental health services. The list of services on the Internet Web site shall be updated at least annually by the county.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.